



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: FEBRUARY 17, 2023

IN THE MATTER OF:

Appeal Board No. 627002

PRESENT: GERALDINE A. REILLY, MEMBER

The Department of Labor issued the initial determination holding the claimant ineligible to receive benefits, effective March 28, 2022 through July 24, 2022, on the basis that the claimant did not comply with registration requirements. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which testimony was taken. There was an appearance by the claimant. By decision filed October 24, 2022 (), the Administrative Law Judge sustained the initial determination.

The Appeal Board, on its motion pursuant to Labor Law § 620 (3), has reopened and reconsidered the Judge's decision.

Our review of the record reveals that the case should be remanded to hold a hearing. During the hearing, the claimant contended that she repeatedly contacted the Department of Labor between March 2022 and July 2022, but she was not afforded sufficient opportunity or an adjournment to produce evidence regarding these calls. The Board has determined to provide the claimant an opportunity to obtain and produce her telephone records for March 2022 through July 2022 along with any other records regarding when she placed calls to the Department of Labor during that time. With regard to his telephone records, if she is unable to obtain her telephone records from any companies, the claimant shall contact the Hearing Section to request

a subpoena for their production. In addition, the Commissioner of Labor should

be represented at the remand hearing. The Commissioner of Labor should produce a witness to provide testimony and evidence regarding any calls made to the Department of Labor from March 2022 through July 2022. The Administrative Law Judge may take additional testimony and evidence as the Judge determines is appropriate.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing on the issue only, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, on the issue, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

GERALDINE A. REILLY, MEMBER